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Attorneys for Defendant  
FREETECH, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

ECHOSTAR SATELLITE L.L.C., a Colorado Limited Liability Company, ECHOSTAR TECHNOLOGIES CORPORATION, a Texas Corporation, and NAGRASTAR L.L.C., a Colorado Limited Liability Company,

**Plaintiffs,**

VS.

FREETECH, INC., a California Corporation,  
and DOES 1-10,

## Defendants.

Case No. 07-6124 (JW)

## **DEFENDANT FREETECH, INC.'S ANSWER**

## **DEMAND FOR JURY TRIAL**

Freetech, Inc. (“Freetech”) responds to the Plaintiffs’ Complaint as follows:

1. Freetech denies the allegations of paragraph 1 of the Complaint.

1       2. Freetech lacks enough information to admit or deny the allegations of paragraph 2 of  
2 the Complaint and therefore denies the allegations.

3       3. Freetech lacks enough information to admit or deny the allegations of paragraph 3 of  
4 the Complaint and therefore denies the allegations.

5       4. Freetech lacks enough information to admit or deny the allegations of paragraph 4 of  
6 the Complaint and therefore denies the allegations.

7       5. Freetech lacks enough information to admit or deny the allegations of paragraph 5 of  
8 the Complaint and therefore denies the allegations.

9       6. Freetech lacks enough information to admit or deny the allegations of paragraph 6 of  
10 the Complaint and therefore denies the allegations.

11      7. Freetech denies the allegations of paragraph 7 of the Complaint.

12      8. Freetech lacks enough information to admit or deny the allegations of paragraph 8 of  
13 the Complaint and therefore denies the allegations.

14      9. Freetech lacks enough information to admit or deny the allegations of paragraph 9 of  
15 the Complaint and therefore denies the allegations.

16      10. Freetech lacks enough information to admit or deny the allegations of paragraph 10 of  
17 the Complaint and therefore denies the allegations.

18      11. Freetech admits that it is a California corporation and that its registered agent for  
19 service of process is Heejoun Jin. Freetech denies the remaining allegations of paragraph 11 of the  
20 Complaint.

21      12. Freetech denies the allegations of paragraph 12 of the Complaint to the extent they  
22 require a response.

23      13. Freetech denies the allegations of paragraph 13 of the Complaint.

24      14. Freetech admits that the Court has jurisdiction over this action. Freetech denies the  
25 remaining allegations of paragraph 14 of the Complaint.

26      15. Freetech admits that the Court has personal jurisdiction over Freetech. Freetech  
27 denies the remaining allegations of paragraph 15 of the Complaint.

1       16. Freetech lacks enough information to admit or deny the allegations of paragraph 16 of  
2 the Complaint and therefore denies the allegations.

3       17. Freetech lacks enough information to admit or deny the allegations of paragraph 17 of  
4 the Complaint and therefore denies the allegations.

5       18. Freetech lacks enough information to admit or deny the allegations of paragraph 18 of  
6 the Complaint and therefore denies the allegations.

7       19. Freetech lacks enough information to admit or deny the allegations of paragraph 19 of  
8 the Complaint and therefore denies the allegations.

9       20. Freetech lacks enough information to admit or deny the allegations of paragraph 20 of  
10 the Complaint and therefore denies the allegations.

11       21. Freetech lacks enough information to admit or deny the allegations of paragraph 21 of  
12 the Complaint and therefore denies the allegations.

13       22. Freetech lacks enough information to admit or deny the allegations of paragraph 22 of  
14 the Complaint and therefore denies the allegations.

15       23. Freetech lacks enough information to admit or deny the allegations of paragraph 23 of  
16 the Complaint and therefore denies the allegations.

17       24. Freetech lacks enough information to admit or deny the allegations of paragraph 24 of  
18 the Complaint and therefore denies the allegations.

19       25. Freetech lacks enough information to admit or deny the allegations of paragraph 25 of  
20 the Complaint and therefore denies the allegations.

21       26. Freetech lacks enough information to admit or deny the allegations of paragraph 26 of  
22 the Complaint and therefore denies the allegations.

23       27. Freetech admits that FTA Receivers are devices that can receive "free-to-air" satellite  
24 television signals, which are either not scrambled or scrambled but available free of charge.  
25 Freetech further admits that "free-to-air" television channels include ethnic, religious, business,  
26 music, information, and advertising content. Freetech lacks enough information to admit or deny the  
27 allegations in first two sentences of paragraph 27 of the Complaint and therefore denies the  
28 allegations. Freetech denies the remaining allegations of paragraph 27 of the Complaint.

1       28. Freetech lacks enough information to admit or deny the allegations of paragraph 28 of  
2 the Complaint and therefore denies the allegations.

3       29. Freetech lacks enough information to admit or deny the allegations of paragraph 29 of  
4 the Complaint and therefore denies the allegations.

5       30. Freetech lacks enough information to admit or deny the allegations of paragraph 30 of  
6 the Complaint and therefore denies the allegations.

7       31. Freetech lacks enough information to admit or deny the allegations of paragraph 31 of  
8 the Complaint and therefore denies the allegations.

9       32. Freetech lacks enough information to admit or deny the allegations of paragraph 32 of  
10 the Complaint and therefore denies the allegations.

11       33. Freetech lacks enough information to admit or deny the allegations of paragraph 33 of  
12 the Complaint and therefore denies the allegations.

13       34. Freetech lacks enough information to admit or deny the allegations of paragraph 34 of  
14 the Complaint and therefore denies the allegations.

15       35. Freetech lacks enough information to admit or deny the allegations of paragraph 35 of  
16 the Complaint and therefore denies the allegations.

17       36. Freetech admits that it distributes and promotes the sale of "Coolsat" branded free-to-  
18 air receivers in the United States. Freetech denies the remaining allegations of paragraph 36 of the  
19 Complaint.

20       37. Freetech denies the allegations of paragraph 37 of the Complaint.

21       38. Freetech admits that it imports FTA receivers from a manufacturer in Asia. Freetech  
22 lacks enough information to admit or deny the remaining allegations of paragraph 38 of the  
23 Complaint and therefore denies the allegations.

24       39. Freetech lacks enough information to admit or deny the allegations of paragraph 39 of  
25 the Complaint and therefore denies the allegations.

26       40. Freetech denies the allegations of the first sentence of paragraph 40 of the Complaint.  
27 Freetech lacks enough information to admit or deny the remaining allegations of paragraph 40 and  
28 therefore denies the allegations.

41. Freetech denies the allegations of the final sentence of paragraph 41 of the Complaint. Freetech lacks enough information to admit or deny the remaining allegations of paragraph 41 and therefore denies the allegations.

42. Freetech denies the allegations of paragraph 42 of the Complaint.

43. Freetech denies the allegations of paragraph 43 of the Complaint.

44. Freetech denies the allegations of paragraph 44 of the Complaint.

## COUNT I

45. Freetech here incorporates by reference paragraphs 1 through 44 above.

46. Freetech denies the allegations of paragraph 46 of the Complaint.

47. Freetech denies the allegations of paragraph 47 of the Complaint.

48. Freetech denies the allegations of paragraph 48 of the Complaint.

49. Freetech denies the allegations of paragraph 49 of the Complaint.

50. Freetech denies the allegations of paragraph 50 of the Complaint.

51. Freetech denies the allegations of paragraph 51 of the Complaint.

## COUNT II

52. Freetech here incorporates by reference paragraphs 1 through 51 above.

53. Freetech denies the allegations of paragraph 53 of the Complaint.

54. Freetech denies the allegations of paragraph 54 of the Complaint.

55. Freetech denies the allegations of paragraph 55 of the Complaint.

56. Freetech denies the allegations of paragraph 56 of the Complaint.

### COUNT III

57. Freetech here incorporates by reference paragraphs 1 through 56 above.

58. Freetech denies the allegations of paragraph 58 of the Complaint.

59. Freetech denies the allegations of paragraph 59 of the Complaint.

60. Fleetech denies the allegations of paragraph 60 of the Complaint.

## COUNT IV

62. Freetech here incorporates by reference paragraphs 1 through 61 above.

63. Freetech denies the allegations of paragraph 63 of the Complaint.

64. Freetech denies the allegations of paragraph 64 of the Complaint.

65. Freetech denies the allegations of paragraph 65 of the Complaint.

66. Freetech denies the allegations of paragraph 66 of the Complaint.

COUNT V

67. Freetech here incorporates by reference paragraphs 1 through 66 above.

68. Freetech denies the allegations of paragraph 68 of the Complaint.

69. Freetech denies the allegations of paragraph 69 of the Complaint.

70. Freetech denies the allegations of paragraph 70 of the Complaint.

71. Freetech denies the allegations of paragraph 71 of the Complaint.

72. Freetech denies the allegations of paragraph 72 of the Complaint.

## COUNT VI

73. Freetech here incorporates by reference paragraphs 1 through 72 above.

74. Freetech denies the allegations of paragraph 74 of the Complaint.

75. Freetech denies the allegations of paragraph 75 of the Complaint.

76. Freetech denies the allegations of paragraph 76 of the Complaint.

77. Freetech denies the allegations of paragraph 77 of the Complaint.

## DEFENSES

Freetech asserts the following defenses, without regard to whether they are "affirmative" defenses or matters as to which the plaintiffs have the burden of proof.

1. Plaintiffs' Complaint, and each cause of action within it, fails to state a cause of action.

2. Process has been defective.

3. Service of process has been insufficient.

4. Plaintiffs' claims are barred by their failure to join indispensable parties.

5. Plaintiffs' claims for statutory damages are barred or limited by the U.S. Constitution.

6. Plaintiffs' claims are barred because Plaintiffs lack standing.

7. Plaintiffs' remedies are limited by 17 U.S.C. § 1203(c)(5).

8. Plaintiffs' state law claims are preempted.
9. Plaintiffs' claims are barred by relevant statutes of limitations.
10. Plaintiffs' claims are barred by laches.
11. Plaintiffs' claims are barred by consent, waiver, acquiescence, and license.
12. Plaintiffs' claims are barred by the doctrine of unclean hands.
13. Plaintiffs' claims are barred by their failure to mitigate damages.

## **PRAAYER FOR RELIEF**

Freetech seeks relief as follows:

- a. That the Court enter judgment in favor of Freetech and against the Plaintiffs on all causes of action;
  - b. That the Court award Freetech costs of suit, including attorney's fees; and
  - c. That the Court grant such additional relief as is just and equitable.

## **DEMAND FOR JURY TRIAL**

Freetech hereby demands a jury trial for all issues triable by jury.

WINSTON & STRAWN LLP

By: /s/

Andrew P. Bridges

Jennifer A. Golinveaux

LAW OFFICE OF JONATHAN BAE

By: /s/

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Jonathan Bae

Attorneys for Defendant Freetech, Inc.

## CONCURRENCE IN FILING

The other signatories above concur in the filing of this pleading.

Dated: December 27, 2007

By · /s/

Matthew A. Scherb